

Federal Communications Commission

DA 00-740

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Spencer and Webster, Massachusetts)

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MM Docket No. 00-8
RM-9788

DISPATCHED

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FCC MAIL SECTION

REPORT AND ORDER
(Proceeding Terminated)

Adopted: March 22, 2000

Released: March 31, 2000

By the Chief, Allocations Branch:

1. The Allocations Branch has before it the Notice of Proposed Rule Making in this proceeding, 12 FCC Rcd 3201 (2000). Montachusett Broadcasting, Inc. ("Montachusett Broadcasting"), licensee of Station WORC-FM, Channel 255A, Spencer, Massachusetts, filed Comments and Reply Comments. No other comments were filed. For the reasons discussed below, we are reallocating Channel 255A from Spencer to Webster, Massachusetts, and are modifying the license of Station WORC-FM to specify Webster as the community of license.

Background

2. In an earlier Report and Order in MM Docket No. 98-174, we reallocated Channel 255A from Webster to Spencer, and modified the license of Station WORC-FM to specify Spencer as the community of license. 14 FCC Rcd 2114 (1999). Thereafter, Montachusett Broadcasting filed this Petition for Rule Making proposing to reallocate Channel 255A back to Webster. In support of this proposal, Montachusett Broadcasting documented its efforts to implement the earlier reallocation. Notwithstanding those efforts, Montachusett Broadcasting stated that there is no transmitter site available that would enable Station WORC-FM to comply with Commission technical rules and local zoning requirements.

3. In view of the above, we are reallocating Channel 255A from Spencer to Webster, Massachusetts, and are modifying the Station WORC-FM license to specify Webster as the community of license.¹ This will enable Station WORC-FM to continue operation. Channel 255A cannot be

¹ The reference coordinates for the Channel 255A allotment at Webster, Massachusetts, are 42-02-10 and 71-59-23. Subsequent to the earlier Report and Order in MM Docket No. 98-174, Station WORC-FM continued to operate from this formerly licensed site. Station WORC-FM may continue to operate pursuant to the separation requirements set forth in section 73.213 (c)(1) of the Rules with respect to Station WPLM-FM, Channel 256B,

implemented at Spencer. As such, we believe that this proposal to reallocate Channel 255A back to Webster complies with Section 1.420(i) of the Commission's Rules and Modification of FM and TV Authorizations to Specify a New Community of License ("Community of License"), 4 FCC Rcd 4870 (1989); recon granted in part, 5 FCC Rcd 7094 (1990).

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective May 16, 2000, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Community</u>	<u>Channel No.</u>
Spencer, Massachusetts	-----
Webster, Massachusetts	255A

5. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Montachusett Broadcasting, Inc. for Station WORC-FM, Channel 255A, Spencer, Massachusetts, IS MODIFIED to specify Webster, Massachusetts, as the community of license, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for construction permit (FCC Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Rules;
- (c) Nothing contained herein shall be construed to authorize a change in transmitter site or avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Rules.

6. Pursuant to Section 1.1104 (1)(k) and (2)(k) of the Commission's Rules, any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rulemaking fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Montachusett Broadcasting, Inc., licensee of Station WORC-FM, is required to submit a rulemaking fee in addition to the fee required for the application to effect the change in community of license.

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Robert Hayne, Mass Media Bureau, (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau